DOCKET NO.: 220741US6PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:
Takanori NISHIMURA, et al.

GROUP: 2151

SERIAL NO: 10/089,083

EXAMINER: DAFTUAR, SAKET R

FILED: April 10, 2002

FOR: METHOD OF USING SERVER, SERVER RESERVATION CONTROL APPARATUS AND PROGRAM STORAGE MEDIUM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

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TAKANORI NISHIMURA, ET AL.	: EXAMINER: DAFTUAR, SAKET K
SERIAL NO: 10/089,083	:
FILED: APRIL 10, 2002	: GROUP ART UNIT: 2151
FOR: METHOD OF USING SERVER, SERVER RESERVATION CONTROL APPARATUS AND PROGRAM STORAGE MEDIUM	:

REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants respectfully request that a Pre-Appeal Brief Conference be initiated in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.

Claims 1-3, 5-12, and 14-27 are currently pending in the application.

In the Final Office Action of January 5, 2006 (hereinafter, "Final Office Action"), Claims 1-3, 5-12 and 14-27 were rejected under 35 U.S.C. § 103(a) as unpatentable over Nakamura et al. (U.S. Patent No. 5,913,039, hereinafter "Nakamura") and further in view of Wiser et al. (U.S. Patent No. 6,868,403 B1, hereinafter "Wiser").

Applicants respectfully traverse the rejection of Claims 1-3, 5-12 and 14-27, as Nakamura fails to teach or suggest specific features if independent Claims 1, 10, 18, 22, 26 and 27 for which it is asserted as a primary reference under 35 U.S.C. § 103.

For example, independent Claim 1 relates to a method of reserving and accessing resources in a distribution server. As depicted in an exemplary, non-limiting embodiment at

Fig. 1, and the flowcharts of Figs. 21, 25 and 37, a user terminal apparatus (e.g., user PC 106) transmits a reservation request (including a desired service time) to distribute contents using a distribution server via a first network (e.g., Internet 103) to a reservation control apparatus (e.g., server reservation control center 101). The reservation control apparatus creates authentication information corresponding to an accepted reservation, which is sent from the user terminal apparatus to the distribution server when attempting to access the distribution server (e.g., streaming server 102) to distribute content. Once the user terminal apparatus is authenticated, the user terminal apparatus transmits content to the distribution server via a second network (e.g., dedicated server connection network 108), and the content is broadcast by the distribution server over the first network (e.g., Internet 103).

Specifically, independent Claim 1, recites, *inter alia* a method of reserving an access and resource in a distribution server, comprising:

> ...transmitting content ***from the user terminal apparatus to a distribution server via a second network***;
> broadcasting by the content distribution server, ***said content data received from said user terminal apparatus over said first network***.

Independent Claims 10, 18, 22, 26 and 27, while directed to alternative embodiments, recite substantially similar features. Accordingly the arguments presented below apply to each of the pending independent claims.

Turning to the applied references, Nakamura describes an on-demand cable system including a multimedia server, which is connected to a plurality of clients via a network and capable of distributing multimedia content based on a reservation received from the client devices.[1] In Nakamura's system, a multimedia transmission request is sent from a client device (101/115) to a server device (120) via a network (130) and is stored in an input queue

[1] Nakamura,, Abstract.

buffer unit (123).[2] Then, a reproduction schedule table is generated which stores scheduled transmissions of requested multimedia content to the requesting client over the network.[3] Thus, Nakamura describes a content distribution system in which a user is able to schedule, or request, specific content to be distributed from the server device to the client terminal at a predetermined time.

Nakamura, however, fails to teach or suggest that content is transmitted from the client (101) to the server (120) and broadcasted by the content distribution server, as recited in independent Claim 1.

In addressing these claimed features, the Final Office Action and outstanding Advisory Action cite col. 1, lines 40-65 and col. 4, line 40-col. 5, line 42 of Nakamura, and the Final Office Action states that "examiner consider data stream transmitted from server interface unit and carried out by client as transmitting content from the user terminal apparatus to the distribution server via second network".[4] Thus, since the "server interface unit" is part of the server (120) the Final Office Action asserts that the server (120) of Nakamura analogous to the claimed "user terminal apparatus", and the client (101) is analogous to the claimed "distribution server".

This interpretation of Nakamura is in contrast to the interpretation of this reference in light of the "reservation requesting", "reservation accepting", "storing", etc., steps recited in independent Claim 1, as addressed in the Final Office Action. Specifically, should Nakamura's "server interface" be interpreted as analogous to the "user terminal apparatus", as recited in the claims, it is clear that this "server interface" does not send reservation request information to a reservation control apparatus; store authentication information; or

[2] Id., col. 1, lines 40-45.
[3] Id., col. 1, line 53 through col. 2, line 15.
[4] Final Office Action, p. 3.

perform other features recited in relation to the "user terminal" apparatus, as recited in independent Claim 1.

However, assuming *arguendo* that a "...data stream transmitted from server interface unit and carried out by client" is analogous to "transmitting content from the user terminal apparatus to the distribution server via second network", this content sent to the client is clearly not broadcast by the client. Independent Claim 1 recites ***broadcasting by the content distribution server, said content data received from said user terminal apparatus over said first network***. In addressing this claimed feature, the outstanding Advisory Action relies on col. 1, lines 15-22, col. 2, lines 16-38, and col. 20, lines 35-38 of Nakamura. The cited portion of Nakamura, simply describes that content data is requested by the client (101) and transmitted from the server (120) to the client (101) to be reproduced, but fails to teach or suggest that the content is ***broadcasted by the*** client (101) ***over said first network***, as recited in independent Claim 1.

The outstanding Advisory Action rebutted the argument presented above, by stating that "examiner respectfully reminds the applicant that Claim 1 reciteds (sic) 'broadcasting by content distribution server.'" However, as noted above, independent Claim 1 recites "transmitting content ***from the user terminal apparatus to a distribution server via a second network***," and "***broadcasting by the content distribution server, said content data received from said user terminal apparatus over said first network***." Thus, independent Claim 1 clearly recites that the content distribution server broadcasts content received from the user terminal apparatus. As discussed above, Nakamura fails to teach or suggest this claimed feature.

Thus, the system described by Nakamura, regardless of interpretation, fails to teach or suggest the method recited in independent Claim 1. Specifically, Nakamura fails to teach or suggest ***transmitting content from the user terminal apparatus to a distribution server via a***

second network, and broadcasting by the content distribution server, ***said content data received from said user terminal apparatus over said first network***, as recited in independent Claim 1.

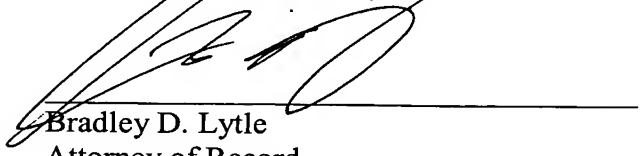
Similarly to Nakamura, Wiser fails to teach or suggest the above differentiated claimed features. Thus, neither Wiser nor Nakamura neither alone or in combination teach or suggest the above-noted features recited in amended Claim 1.

Accordingly, Applicant respectfully requests the rejection of Claim 1 under 35 U.S.C. § 103 be withdrawn. For substantially the same reasons as given with respect to amended Claim 1, it is also submitted that independent Claims 10, 18, 22, 26 and 27 patentably define over the applied references.

Therefore, for at least the deficiencies discussed above, Applicants request that the rejection of Claims 1-3, 5-12 and 14-27 under 35 U.S.C. § 103 be withdrawn.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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